

1 In determining whether to appoint a particular guardian ad litem, the court must consider
2 whether the minor and the guardian have divergent interests. Cal. Code Civ. P. § 372(b)(1). “When
3 there is a potential conflict between a perceived parental responsibility and an obligation to assist the
4 court in achieving a just and speedy determination of the action, a court has the right to select a
5 guardian ad litem who is not a parent if that guardian would best protect the child’s interests.” *Williams*
6 *v. Super. Ct.*, 147 Cal. App. 4th 36, 38 (Cal. Ct. App. 4th 2007) (internal quotation marks and citation
7 omitted). “[I]f the parent has an actual or potential conflict of interest with his child, the parent has no
8 right to control or influence the child’s litigation.” *Id.* at 50. The decision whether to appoint a
9 guardian ad litem is “normally left to the sound discretion of the trial court.” *United States v. 30.64*
10 *Acres of Land, etc.*, 795 F.2d 796, 804 (9th Cir. 1986).

11 **II. Discussion**

12 Here, the parties report that B.J.C. is a minor as defined by California law and the child of
13 defendant Anita Rojas. (Doc. 36 at 3.) Upon review of the Answer and First Amended Counterclaim, it
14 does not appear there are adverse interests between Ms. Rojas and B.J.C. Therefore, there is no
15 apparent impediment to Ms. Rojas being appointed guardian ad litem for B.J.C. See *Burke v. Smith*,
16 252 F.3d 1260, 1264 (11th Cir. 2001) (“Generally, when a minor is represented by a parent who is a
17 party to the lawsuit and who has the same interests as the child there is no inherent conflict of
18 interest.”); see also *Anthem Life Ins. Co. v. Olguin*, 2007 U.S. Dist. LEXIS 37669 at *7 (E.D. Cal. May
19 9, 2007) (observing “[a] parent is generally appointed guardian ad litem”).

20 **III. Conclusion and Order**

21 The decision whether to appoint a guardian ad litem is “normally left to the sound discretion of
22 the trial court.” *United States v. 30.64 Acres of Land, etc.*, 795 F.2d 796, 804 (9th Cir. 1986). In this
23 case, it does not appear Ms. Cox has interests that conflict with the interest of her children. Therefore,
24 the Court is acting within its discretion to grant the petitions.

25 Accordingly, **IT IS HEREBY ORDERED:**

- 26 1. The petition for appointment of Anita Rojas as guardian ad litem for defendant B.J.C.
27 (Doc. 36) is **GRANTED**; and
- 28 2. Anita Rojas is appointed to act as guardian ad litem for defendant B.J.C., and is

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authorized to defend Plaintiff's claims on his behalf, and prosecute their counterclaim on his behalf.

IT IS SO ORDERED.

Dated: September 20, 2014

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE